

FEBRUARY 1, 2006

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February 1, 2006 LB 72, 72A, 85, 85A, 87, 87A, 970
 LR 281, 282, 283

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Pastor Bob Chitwood, Brownville Christian Church, Brownville, Nebraska, Senator Heidemann's district. Pastor, please.

PASTOR CHITWOOD: (Prayer offered.)

SENATOR CUDABACK: Thank you, Dr. Chitwood, for being with us this morning. We appreciate it. I call the nineteenth day of the Ninety-Ninth Legislature, Second Session, to order. Senators, please check in.

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Please record, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

PRESIDENT SHEEHY: Thank you. Do you have any corrections for the Journal?

CLERK: I have no corrections this morning, Mr. President.

PRESIDENT SHEEHY: Do you have any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 72, LB 72A, LB 87, LB 87A, LB 85, and LB 85A to Select File, some of which have Enrollment and Review amendments attached. Natural Resources Committee reports LB 970 to General File with committee amendments attached, that signed by Senator Schrock. Notice of hearing from Senator Jensen. And a communication from the Governor regarding withdrawal of a certain gubernatorial appointee. That's all that I had, Mr. President. (Legislative Journal pages 513-518.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 281, LR 282, and LR 283. First item

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

on the agenda, Mr. Clerk.

CLERK: Mr. President, LB 876 on General File, introduced by the Banking, Commerce and Insurance Committee. (Read title.) The bill was introduced on January 5 of this year, referred to the Banking Committee, advanced to General File. I do have committee amendments, Mr. President. (AM1997, Legislative Journal page 478.)

PRESIDENT SHEEHY: Go ahead with the amendment. Senator Mines, you're recognized to open on LB 876.

SENATOR NINES: Thank you, Mr. President. LB 876, from the Banking, Commerce and Insurance Committee, introduced at the request of the Department of Banking and Finance, would amend various sections regarding banking and finance. Let me go through those section by section. Section 1 would amend Section 8-141 of the Nebraska Banking Act, which sets forth the matter of determining the lending limits of individual state banks. This section would provide in that calculations involving a state bank's unimpaired capital and unimpaired surplus, or a state bank's paid-up capital and surplus, the Department of Banking and Finance may, by order, deny or limit the inclusion of goodwill in the calculation. This section would specifically provide that this is an exception to the state charter bank wild-card section, 8-1,140. Section 2 and 3...or, Sections 2 and 3 would amend Sections 8-178 and 8-179 of the Nebraska Banking Act, relating to the conversion of national banks to state-chartered banks, to provide specific procedures for the accompanying conversion of a trust company...excuse me, trust company business within the trust department of such converting national bank to trust company business within a trust department of the converted state-chartered bank. This was silent in previous statute, and this is a technical correction. Section 4 would amend Section 8-1,140 of the Nebraska Banking Act, which is the wild-card statute for state-chartered banks. This section would amend to give state-chartered banks the same rights, powers, privileges, benefits, and immunities which may be exercised by a national bank doing business in Nebraska as of the operative date of this section. This section would be subject to the bill's E clause,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

and due to state constitutional restrictions, this statute is enacted annually. Building and loan associations in Section 5 would amend Section 8-355, which, again, is the wild-card statute for state-chartered loan...excuse me, state-chartered building and loan associations. This section would be amended to give state-chartered building and loan associations the same rights, powers, privileges, benefits, and immunities which may be exercised by federal savings and loan associations doing business in Nebraska as of the operative date of this section. Again, this is subject to the emergency clause. And due to state constitutional restrictions, this statute must also be reenacted annually. Section 6 would amend Section 8-1001.01 of the state...Nebraska Sale of Checks and Funds Transmission Act, to provide that new Sections 10 and 11 of the bill shall be assigned within the act. Section 7 would amend Sections 8-1008 of the Nebraska Sale of Checks and Funds Transmission Act to repeal obsolete provisions. Section 8 would amend Section 8-1010 of the Nebraska Sale of Checks and Funds Transmission Act to harmonize an internal reference. Section 9 would amend Section 8-1012 of the Nebraska Sale of Checks and Funds Transmission Act to provide that the Director of Banking and Finance may suspend or revoke a license only after notice and a hearing in accordance with the Administrative Procedures Act. This section would provide that a licensee may voluntarily surrender a license to the director, and that a surrender shall not affect civil or criminal liability for acts committed before the surrender or liability for fines levied before the surrender. This section would provide that if a licensee fails to renew its license as required, or fails to maintain a surety bond as required, the Department of Banking and Finance may issue a notice of cancellation of the license in lieu of revocation proceedings. This section would provide that revocation, suspension, surrender, cancellation, or expiration of a license shall not impair or affect the obligation of a preexisting lawful contract between the licensee and any person. This section would provide that the revocation, suspension, surrender, cancellation, or expiration of a license shall not affect civil or criminal liability for acts committed before the revocation, suspension, cancellation, or expiration of liability for any fines levied for the act committed before the surrender. Section 10 would enact a new section in Nebraska Sale of Checks

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

and Funds Transmission Act to provide the Department of Banking and Finance with cease and desist authority to enforce the act. Section 11 would enact a new section in the Nebraska Sale of Checks And Fund Transmissaion Act to provide that the Director of Banking and Finance with investigative powers, and would authorize the director to request the Attorney General to enforce the act. Section 12 is credit unions, and the section would be amended...or, would amend 21-17,115 of the Credit Union Act, which is the wild-card statute for state-chartered credit unions. This section would be amended to give state-chartered credit unions the same rights, powers, privileges, benefits, and immunities which may be exercised by a federal credit union doing business in Nebraska as of the operative date of this section. Again, the E clause applies. And because of constitutional restrictions, this statute is reenacted annually. Section 13 would amend Section 45-701 of the Mortgage Bankers Registration and Licensaing Act to provide that new Section 21 of this bill shall be assigned within the act. Section 14 would amend Section 45-702 of the Mortgage Bankers Regiatriation and Licensing Act, the definition section of the act, to provide for the definition of new term, "offer": every attempt to provide, offer to provide, or solicitation to provide a mortgage loan or any other form of mortgage banking business, including all general and public advertising, whether made in print, through electronic media, or by the Internet. Section 15 would amend Section 45-706 of the Mortgage Bankers Registration and Licensing Act to provide that the Director of Banking and Finance may deny an application for a mortgage banker license if an officer, director, shareholder, partner, or member was convicted of a felony under state or federal law, or convicted of a misdemeanor involving the mortgage banking business, financial institution business, or inatallment loan business. Section 16 would amend Section 45-707 of the Mortgage Bankers Registration and Licensing Act to provide that the revocation, suspnsion, cancellation, or expiration of a mortgage banker license shall not be...shall not affect liability for any fine which may be levied against the licensee or any of its officers, directors, shareholders, partners, or members for acta committed previous to the revocation, suspension, cancellation, or expiration. Section 17 amends Section 45-709 of this act to increase the base amount of the surety bond required to be filed

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

by a licensee from \$50,000 to \$100,000, phased in until March 1 of '07. Section 18 amends 45-714 of the Mortgage Bankers Registration and Licensing Act, which lists prohibited acts, to provide additionally that a licensee, an officer, an employee, or an agent of a licensee shall additionally...shall, excuse me, shall not advertise any false, misleading, or deceptive statement with regard to rates, terms, or conditions of a mortgage loan or in the Internet...on the Internet, or regarding qualifications of the licensee, or an official, employee, or agent, and borrow money from, personally loan money to, or guarantee any loan made to a customer or applicant for a mortgage loan. Section 19 would amend Section 45-717 of the Mortgage Bankers Registration and Licensing Act to repeal provisions regarding investigation and enforcement so they can be moved to the new Section 21 of this bill. Section 20 would amend Section 45-717.01 of the Mortgage Banker Registration and Licensing Act to increase the maximum administrative fine for each violation of the act from \$1,000 to \$5,000. Section 21 would enact a new section in the Mortgage Banker Registration and Licensing Act to provide the Director of Banking and Finance with investigative authority and authorize the director to request the Attorney General to enforce the act.

PRESIDENT SHEEHY: One minute.

SENATOR MINES: Section 21 (sic) would amend Section 45-1007 of the Nebraska Installment Loan Act to provide for repeal of obsolete provisions. And under miscellaneous, Section 23 provides Section 4, 5, and 12 of the bill, the wild-card sections, must be subject to the emergency clause. Section 24 would provide a repealer for amendatory sections, subject to the emergency clause. Section 25, provide for a repealer of amendatory sections not subject to the emergency clause. And Section 26 would provide for the E clause. That concludes my opening remarks.

PRESIDENT SHEEHY: Thank you, Senator Smith (sic). Senator Dwite...thank you, Senator Mines. (Visitors and doctor of the day introduced.) Mr. Clerk, next item.

ASSISTANT CLERK: Mr. President, there are committee amendments

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876, 877

offered by the Banking Committee.

PRESIDENT SHEEHY: Senator Mines, you're recognized to open on AM1997.

SENATOR MINES: Thank you, Mr. President. We do have committee amendments. Committee amendment AM1997 would provide that Sections 2 and 3 of the bill as introduced would be subject to the E clause. These sections would amend Section 8-178 and 8-179 of the Nebraska Banking Act, relating to the conversion of national banks to state charter banks, to provide specific procedures for the accompanying conversion of a trust company business within that trust department of such converting national bank to a trust company business within a trust department of the converted state-chartered bank. We've also included LB 877 in Section 2 of the committee amendment, would amend Section 8-148.04 of the Nebraska Banking Act to increase the maximum amount of investment a state-chartered bank can make in any one community development entity from 5 percent to 10 percent of the bank's capital and surplus. The amendments would provide that if the bank's investment in any one entity would exceed 5 percent of its capital and surplus, the prior written approval of the Department of Banking and Finance must be obtained. Currently, this section provides that the bank's investment in any one entity cannot exceed 5 percent of its capital and surplus, and its aggregate investments in all entities cannot exceed 10 percent of its capital and surplus. This section does request the emergency clause. Section 13 to 15 of the committee amendments would amend Section 8-1601, 8-1602, and 8-1605 of the banker's bank statutes. These statutes currently allow for the formation of a banker's bank which is FDIC-insured, owned by other Nebraska banks, and provides services exclusively for these banks. The amendments would allow a banker's bank to be owned by a holding company, foreign...excuse me, foreign bank holding companies, as well as any other Nebraska bank, or combination of such entities. The amendment would allow banks to own an interest in the bank holding company or a foreign bank holding company of a bank's...banker's bank, or a foreign banker's bank. Section 27 of the committee amendment would amend the Uniform Commercial Code Section 9-705 to provide for financing statement filed in

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

Februsry 1, 2006 LB 876

the proper place in Nebraska before July 1, 2001, under former UCC Article 9, and for which the proper place of filing in Nebraska has not changed...was not changed on July 1, 2001, under Revised UCC Article, shall not be subject to the provisions of subdivision (c)(2) of this section, which would otherwise cause such financing statement to cease to be effective on June 30 of 2006. And Section 28 of the committee amendment would amend UCC Section 9-707 to harmonize an internal reference. And these sections would be subject to the E clause. That concludes my opening.

PRESIDENT SHEEHY: Thank you, Senator Mines. You've heard the opening on AM1997 by the Banking Committee. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, after listening to "Senator Smith" give his opening on the bill, then Senator Mines give his opening and explanation of this committee amendment, all I can say is, wow. If people didn't listen, they missed something. But I do have a serious question that I want to ask Senator Mines, on page 2 of the committee amendment.

PRESIDENT SHEEHY: Senator Mines, would you yield?

SENATOR MINES: I will, Mr. Preaident.

SENATOR CHAMBERS: This is existiing language that I'm going to ask you about. It would be in line 18.

SENATOR MINES: I am almost there, Senator.

SENATOR CHAMBERS: Take your time, because, see, I'm like the patient with the ailment, and you're the doctor with the remedy, so I wait.

SENATOR MINES: I am really struggling. Why don't you ask the question, then I will...

SENATOR CHAMBERS: All right.

SENATOR MINES: Follow up.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

SENATOR CHAMBERS: When the term "banker's bank" is used, when it says "banker's," is that to be a singular word, or a plural? When they say "banker's bank," is it a singular bank they're talking about?

SENATOR MINES: It is singular.

SENATOR CHAMBERS: Okay.

SENATOR MINES: Could be interpreted to be plural, you're right.

SENATOR CHAMBERS: So when they...when the bill says "banker's bank," they mean one banker who is doing this. Is that correct?

SENATOR MINES: One bank entity.

SENATOR CHAMBERS: One bank entity. Okay, that takes care of the question that I had on the committee amendment. So my other questions would go to the bill. I will wait until the committee amendments have been adopted. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Beutler.

SENATOR BEUTLER: Senator Mines, if you could respond? I just have questions about one section of the bill, and I wanted to explore a little bit what the implications of that section is. It's on page 20 of the bill. And it's a definitional section, and it says that "offer" means every attempt to provide, offer to provide, or solicitation to provide a mortgage loan or any form of mortgage banking business. Then it goes on to say that "offer" includes, but is not limited to, all general and public advertising, whether in print, through the electronic media, or by the Internet. What I wanted to ask you about is the relationship of this definition to the Mortgage Bankers Registration and Licensing Act generally. In that act, the definition of a mortgage banker is one who offers to make mortgage loans; mortgage banking business is described as a business where you offer to make these loans. Is the intent of this new definition to bring more people in under the Mortgage

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

Banking and Licensing Act, and forcing the licensing of additional entities?

SENATOR MINES: I was just informed, but it's to allow solicitation via electronic media or primarily the Internet solicitation.

SENATOR BEUTLER: Is...then the intent of the definition is to allow Internet solicitation, or to prohibit it without registration?

SENATOR MINES: It's my understanding it's to allow and to regulate Internet solicitation, in that there's Internet solicitation currently from outside Nebraska, and this is simply to enact registration and regulation within the state.

SENATOR BEUTLER: Well, currently, under law, if you approach a customer in Nebraska over the Internet, are you required to register under the Mortgage Bankers Registration and Licensing Act?

SENATOR MINES: Ooh, good question. I'll find out. Oh, I just...I got a yes. I didn't know that, sorry.

SENATOR BEUTLER: So if you...no matter...let's say that over the Internet I just say, I'm Joe Mortgage Company out of Ohio, we make mortgage loans, call us or e-mail us at such and such an address. If I do just that, under current law, do I need to either register or be licensed under the Nebraska Act?

SENATOR MINES: I guess you do. Yes, you do.

SENATOR BEUTLER: Okay. Then the purpose of that provision...what is the purpose of changing that provision? I don't...I'm...it's eluding me what the purpose is.

SENATOR MINES: Well, I think it...

PRESIDENT SHEEHY: One minute.

SENATOR MINES: Internet solicitation is, obviously, silent in

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

the bill. There is no reference to Internet solicitation. And I...this is the department's attempt to not only provide registration, but allow them to regulate the solicitation.

SENATOR BEUTLER: But they're already licensed. They already have to be licensed, or registered, right?

SENATOR MINES: They do have to register.

SENATOR BEUTLER: Okay, let me...Senator, let me pursue this off the floor...

SENATOR MINES: I'll find out. Thank you.

SENATOR BEUTLER: ...a little bit, because this is not...I should get more information off the floor, so I'm not wasting everybody's time. I appreciate it. Thank you.

SENATOR MINES: Thank you.

PRESIDENT SHEEHY: Thank you, Senator Beutler. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is a bill which I don't completely understand, so I'm trying to. And I've had to go to an original source. When this amendment that is being discussed makes reference to a banker's bank, it tells how such a bank is formed, and you have to go to Section 8-1602 to find it out. And here's what that provision says. "A banker's bank"...and the word "banker" in "banker's bank" is singular with an "s." "A banker's bank may be formed with the approval of the department and subject to requirements" and so forth. Now that I know that word is to be singular, I need to ask Senator Mines some questions, so that I may be enlightened.

PRESIDENT SHEEHY: Senator, would you yield?

SENATOR MINES: I will. Thank you, Mr. President.

SENATOR CHAMBERS: Senator Mines, since that word is singular,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

it means an individual, as you said, banking entity.

SENATOR MINES: Entity, that is correct.

SENATOR CHAMBERS: A bank. Who is served by this banker's bank?

SENATOR MINES: In Nebraska, a banker's bank is typically...and most of the members of the banker's bank are small Nebraska banks. And they subscribe to correspondence services from this entity, or a banker's bank, and through a cooperative effort, they--by the way, they own part of...typically own part of that banker's bank--they're able to pool their resources so they get better interest rates and are able to deal on a larger scale.

SENATOR CHAMBERS: So then we have, on the left hand, this entity called the banker's bank,...

SENATOR MINES: That is correct.

SENATOR CHAMBERS: ...singular.

SENATOR MINES: Yes.

SENATOR CHAMBERS: On the right hand,...the left hand I have a fist; the right hand, all the fingers are separated, to indicate membership in that banker's bank. Is that correct?

SENATOR MINES: That is correct. Yes, it is.

SENATOR CHAMBERS: Well, since a number of bankers are parts of this enterprise, it seems to me that that word ought to be plural, because not only are banks comprising it, but it serves banks, it is for banks. So a banker's bank is a server of other banks, so its customers are banks; therefore, the "banker" should be a plural word, just like if we had "children's hospital." That doesn't mean it belongs to the children, but it serves children. We don't call it "child's," c-h-i-l-d-'-s, "hospital." That's the concept I'm trying to grasp, which I'm not being very successful in doing.

SENATOR MINES: Let me take the opposite side. If...this is a

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

single entity,...

SENATOR CHAMBERS: Yes.

SENATOR MINES: ...and it does business with other banks.

SENATOR CHAMBERS: Yes.

SENATOR MINES: So the...we're talking, "the bankers" is a single entity. The entity is "banker's," "'s," doing...and referencing their organization, a bank.

SENATOR CHAMBERS: Then why isn't called a "bank's bank," instead of "banker's"? "Banker" refers to a person. So the entity cannot be a banker, because...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...it comprises more than an individual. Those served are banks, so it should be a "banks' bank," meaning a bank dedicated to serving only banks. So it's a "banks' bank."

SENATOR MINES: I think one could argue either side of that. And I'm doing it very ineffectively.

SENATOR CHAMBERS: I don't know that you're doing it ineffectively. I'm having trouble clearly articulating what is in my mind with reference to this. So when I'm recognized, I'm going to take my time and try to be clearer in what I'm saying, because I was kind of "lickety-splitting" and rushing so that...

SENATOR MINES: Okay.

SENATOR CHAMBERS: ...I could get it all in during that five minutes. Thank you, Mr. President.

PRESIDENT SHEEHY: Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. Members of the Legislature, no banking entity carries the term "banker." A banker is one who

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

banks. In a strict sense, the banker is the one who operates the bank. That's in a strict sense. If you want to make the word broader, it could apply to anybody who deposits something in the bank. But we call that person a depositor, a customer, a client, or whatever, so we have terminology to distinguish the one who uses the bank's services from the bank. The bank is the entity; the banker is the one who operates the entity. If this entity consists of other banks, then it's not a "banker's bank"; it is a "banks' bank," meaning it is a bank, a bank entity, and it serves other banks. So it should not be a "banker's bank"; it should be a "banks' bank," and that word "banks'" should be plural, I believe. I'll ask the Chairman of the Banking Committee if he at least understands what I'm saying, because I don't know how to say it differently from the way I have.

PRESIDENT SHEEHY: Senator Mines.

SENATOR MINES: Yes, Mr. President. Senator Chambers, the...I was thinking. The...in practice, a banker's bank only provides services to bankers.

SENATOR CHAMBERS: Yes.

SENATOR MINES: It does not provide services to anyone else, not the general public. This is...they provide services to bankers. So the possessive would be a banker's, "'s," would be the possessive.

SENATOR CHAMBERS: Stop for a second. Why don't we drop the apostrophe and make that word just plural, "bankers bank," meaning it serves bankers, a bank for bankers?

SENATOR MINES: You've got to have a possessive of some kind in that statement, don't you?

SENATOR CHAMBERS: I don't think so. You're making it clear that it's a bank that serves only banks. Then call it a "banks bank." When you say "banker," you're dealing with a person, I believe. I don't think there's any way the term "banker" can be applied, in the way we're talking about it here, to an entity. The bank...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

SENATOR MINES: That's fair.

SENATOR CHAMBERS: ...is the repository or recipient or receiver of these deposits or whatever it is that these other banks are going to present. So we have the entity, which is going to be the receiver. We have the banks, which are served, who will be either putting something there or receiving services,...

SENATOR MINES: Yes.

SENATOR CHAMBERS: ...but they are not the operators of this entity, even though they may be members of it.

SENATOR MINES: They are members.

SENATOR CHAMBERS: There is a distinction between some of those banks that may be cooperative owners, or whatever they would be called, and the entity itself. In other words, the entity is more than this number of banks that may be a part of the ownership. You could have this entity without any of those other banks being a part of it.

SENATOR MINES: You could.

PRESIDENT SHEEHY: One minute.

SENATOR MINES: Yes, you could.

SENATOR CHAMBERS: So if you're going to call it a "banker's bank," that means it's serving these banks, so it should be "bankers" without an apostrophe, but plural, in the same way that "children's hospital" makes it clear that this is a hospital that serves children.

SENATOR MINES: Is "children's"...may I ask a question?

SENATOR CHAMBERS: Yes.

SENATOR MINES: "Children's hospital" is...does not have an apostrophe?

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

SENATOR CHAMBERS: I don't think so.

SENATOR MINES: I don't think it does either. Okay.

SENATOR CHAMBERS: Thank you, Senator Mines. Mr. President, how much time do I have?

PRESIDENT SHEEHY: Thirty seconds.

SENATOR CHAMBERS: Oh. Then, have I spoken three times already? Okay.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Further discussion on AM1997? Seeing none, Senator Mines, you're recognized to close.

SENATOR MINES: Thank you, Mr. President. This, again, is the omnibus...excuse me, I'm on the amendment. The amendment is...includes banker's bank, as we've discussed. It also includes a few other revisions that will help the banking industry. And with that, I will close.

PRESIDENT SHEEHY: Thank you, Senator Mines. The question before the body is, shall AM1997 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT SHEEHY: Committee amendment AM1997 is adopted. We'll move back...

CLERK: I have nothing further on the bill, Mr. President.

PRESIDENT SHEEHY: We'll move back to discussion on LB 876. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Mines almost said that he was on the omnibus bill, and

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

then remembered he was on the amendment. So I will say he correctly described the bill as an omnibus bill, but this was an ominous amendment. I at least know what a banker's bank does. I know what its purpose is, I know how it operates, and that is something I did not know when I first came here this morning. And Senator Mines did help make that very clear and understandable to me, and I had no concept of what it was prior to that. A few days ago, Senator Mines had mentioned the possibility of a banker's bank proposal coming before us, and prior to that, I had never even heard of the term before. I still think, despite the fact that "banker's bank" is a term where the "banker" word is singular with an "s" following it to show possession of something, is not correct, in my view, just as "childrens hospital" would not be "children's," because to do that would indicate ownership on the part of the children in the hospital itself. But it's a hospital that serves children. So instead of saying "children hospital," which could indicate that you're describing the hospital itself as the offspring of an adult hospital, they just put an "s" on it and call it "childrens hospital." I do not see where any confusion would result if we got rid of the possessive form of that word. But then, I'm not a banker. The only thing I've ever done is put money in a bank. Being completely honest, I have fancied what it would be like to make what they call one of those unauthorized withdrawals, just walk in there, flash a gat, and say, gimme your dough. I imagine that would be a whale of a rush. And all I would have to do, it would be the perfect disguise, is put on a Hamburg hat, a Hart Schaffner and Marx suit, Stacy Adams shoes, and walk in with a cane, with my face fully exposed, and pull out a nickel-plated... I think I'd use a revolver, in honor of "ABC," "ABC" Combs, that is, and say, gimme your dough. And they'd start shoveling it into the bag, and they'd keep staring. Then I would say, thank you, and walk out. And when the time came to give the description, they'd say, you know, there's... I'm in a bind; it's somebody that it seems like I've seen before, but I can't give you a description. Well, was he tall or short? I'm really not sure, but he was one or the other or in-between. Well, was he white or black? I... he was one or the other. Well, describe his facial characteristics. I really can't do it. See, that's how you throw people into confusion, and I would get away clean. Then I

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

could retire and go to the Bahamas,...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...if I went to one of these banker's banks that Senator Mines has talked to us about, and they've got enough money. But at any rate, I wanted the opportunity to say a little something, so that my amendment could be placed on the desk. And I think it's up there now. So thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Mr. Clerk, do you have an amendment at the desk?

CLERK: Senator Chambers would move to amend with FA377. (Legislative Journal page 519.)

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on FA377.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm doing it for the first time on this bill, but I've seen this construction before. What the amendment says, then I'll explain it, on page 9, in line 18, a strike and show as stricken the word "only," then, following the word "required" on the same line 18, insert "only," underlined. The language as currently found in the statute, and it's existing language, is a part of this sentence: The public hearing requirement of subdivision (1) of a certain section and the rules and regulations of the department shall only be required if. Instead of saying "shall only be required," it should say, "shall be required only if." The structure should be "only if." And I've talked to Senator Mines about it, so I will ask him how he feels about this amendment.

PRESIDENT SHEEHY: Senator Mines, would you yield?

SENATOR MINES: Yes, Mr. President. Senator Chambers, I couldn't agree more. That's incorrectly drafted, and "only" should apply after...you should be able to move it...or, should move it there, because it applies to the rest of the subject.

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

SENATOR CHAMBERS: Thank you, Senator Mines. Senator Mines is the Chairman of a committee which has a highly competent staff, and it's difficult for me to take one of his committee's bills, one of his bills, and do to it what I've done to some of these other bills, because the work is well done, and it's a very technical area, precision is necessary. The only place I think they've blundered is when they talk about "banker's bank." But I'm not going to go through that. I'm not going to offer an amendment, because that's not what I want to do. And since Senator Mines has agreed to this amendment, I'm going to end my discussion, because there is a word on this page which I think does need a bit more discussion than this amendment. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the opening on FA377. The floor is now open for discussion. No requests. Senator Chambers, you're recognized to close. Senator Chambers waives closing. The question before the body is, shall FA377 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Chambers' amendment.

PRESIDENT SHEEHY: FA377 is adopted. We'll now move back to discussion on LB 876. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I have to kind of get into a religious discussion this morning. Bank subjects cause you to do that. They have words such as "redemption," which is a religious term, and "conversion," which is a religious term. But I assure everybody, when I mention the word "conversion" this morning, it has nothing to do with anything religious. This portion that I'm going to look at is on page 9, and it would start in line 16. And the word that I would like to discuss is found on page...on line 22, and that word is "substantive." There is a discussion here of a conversion of a bank from one status to another. And the only circumstances under which...one of the circumstances, is if, the

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

way the current law reads, an objection to the conversion within 15 days after a certain publication occurs. The word "objection" in the current statute is just sitting there unmodified. The new language offered by LB 876 would put the two words "a substantive" before "objection." There is no definition of "substantive," and that word has a different meaning to different people. I doubt that if we gave everybody on the floor a slip of paper on which he or she would write a brief definition of the word "substantive," there may be some general agreement, but there would also be differences found. Because we're dealing with a technical area of the law and we're talking about a hearing, whether or not there will be one, when a conversion is proposed, I think the insertion of an undefined, subjective term, which can have different meanings to different people, can lead to a type of controversy and even litigation, which currently is not the case. Because this is--and I told Senator Mines this--it's, for a person such as myself, an esoteric area of the law, I could read in the newspaper or wherever a notice of a conversion is to be printed and I would not make an objection. I wouldn't even know what basis would allow for an objection. So my belief, from having read this bill, grasped as much of it as I could in the short time I've spent on it, is that an objection is not going to be raised other than by somebody connected with the industry. And these people are a little more reluctant than are legislators to look foolish, so I doubt if a person connected with this industry, or even a part of it, would come forth to the director and say, I object to this conversion and I think there should be a hearing;...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...and the director would say, on what basis do you object; and the person would say, well, this morning when I had my breakfast, my bacon wasn't crisp, my toast was soggy, my coffee was lukewarm, so I object. Now, legislators would do that, but I don't think the people who are dealing with the industry that this bill addresses would do that. I believe, and I could be mistaken, and I stand to be corrected, that we don't need to modify the word "objection." But if I have it told to me that frivolous, unjustified objections have been made and the

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

word is necessary, I'll begin to modify my thinking. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. (Visitors introduced.) Senator Mines.

SENATOR MINES: Thank you, Mr. President. Just to continue with Senator Chambers, last night, while reviewing the presentation, I highlighted this very same thing, a substantive objective...or, objection. "Substantive," as he has already said, is subjective. It's a term that can be loosely defined. And I wondered why the Banking Department wanted this additional authority, and in fact, find that if you look at the first part of this paragraph on page 8 (sic), line 16, it refers to a public hearing requirement. Now, without "substantive," any objection would qualify for a public hearing. And I think what the Banking Department is asking is, you know what, there may be frivolous objections. I can't tell you if there have been or not. So by adding this very subjective word, it allows the department director the ability to determine if a hearing should or shouldn't be held. I also understand that the department isn't going to fall on their sword for this one, and I think they're fine either way. This just gives the department director some latitude as to whether or not a hearing is held. And if Senator Chambers wishes to engage, I will let him do so.

PRESIDENT SHEEHY: Senator Chambers.

SENATOR CHAMBERS: Mr. President, Senator Mines, in presenting the rationale of the Banking Department, gives even greater weight to the argument that I'm making. This term would allow the Banking Director to exercise discretion or formulate an opinion or a judgment on an issue where there might be some serious contentions. I think it would be better to go forward with the hearing based on the objection that is offered, instead of creating an ancillary or side issue related to whether or not the director had a basis for determining that the objection is frivolous and therefore no hearing is warranted. The person who is making the objection could justifiably feel that the director is too close to be impartial, to be objective on this matter, because to allow a hearing would require work on the part of the

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FLOOR DEBATE

February 1, 2006 LB 876

department, so maybe a decision is made which ought not to be, under the facts. Sometimes it is better to err on the side of liberality. And I know I shouldn't use that word in a state like Nebraska, where the word "liberal" drives people up the wall. You cannot even describe education at the university as liberal arts, because all these people think of, "nekked" women. That's what they mean. Liberal arts? No, we ain't having none of that liberal arts stuff around here. And you might say, well, the word is broader than just representations of an artistic nature. We're not talking just about sculpture, painting, drawing, drama, and the other things that most people might think of when they see the word "art." We're talking about the type of education which in the old, old days...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...were deemed to be suitable for a free person. It was called "liberal." That's what it means. So let me strike from the record what I said about liberality. I don't think we ought to give this kind of discretion to the Banking Director, because I still have not heard, even in paying close attention to Senator Mines' explanation, anything that suggests that this right to invoke a hearing has been abused. So I'm offering an amendment, and we will join issue on the basis of that. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Do you have an amendment at the desk, Mr. Clerk?

CLERK: Senator Chambers would move to amend with FA378, Mr. President. (Legislative Journal page 519.)

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on FA378.

SENATOR CHAMBERS: Thank you. And Mr. President, for the record, I'm going to say what the amendment does. On page 9, in line 22, I would reinstate the old language, which is the article "an," a-n, and strike the new language, which would be the two words "a substantive." And I have discussed somewhat already my reason for doing it. I'm not going to do a lot with

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

this bill, or attempt to do a lot with it, because there is not much that needs to be done. The part that gave me heartburn, ironically, is the only part that I'm not going to try to amend, and that's "banker's bank." I'm not going to get over that. I want Senator Mines and the Banking Department to know, and Bill Marienau, I want him in the record on this, too, "banker's bank" is a term that will follow me to my grave. And if I'm conscious of the fact that I'm breathing my last, and somebody says, Ernie, do you have anything you want to say, what is the last thing you want people to remember as you leave here, I'll say, banker's bank. Then they'll make a movie, and it will start with an elderly gentleman breathing his last. I think they call it rale when you have the death rattle. He'll say, banker's bank, in the same way that there is a famous movie that started with a sled, a little child's sled burning, and you see the word "rosebud" on the sled. Well, "banker's bank" will replace "rosebud." Now, I don't know who will play me in the movie. But at any rate, "banker's bank" is sticking in my crsk. And I want to say it enough times so that it rattles around in you all's brain, too. I didn't try to amend it. But at this point, I really think the department is a bit paranoid. How much trouble would it be, if an objection is made, to convene a hearing? Courts might have a motion made by an inmate, and the motion will be such and such, and the request will be made for an evidentiary hearing. The court will review the motion, determine what kind of relief is being requested, and may determine that there is not enough here to require an evidentiary hearing. A ruling can be made on the basis of the motion. An inmate can appeal. The appeal may be turned down, but the appeal can be made. If we put this kind of language in the statute and a person feels that there should be a hearing, is he or she entitled to appeal that denial of the hearing someplace? And that's the question I will ask Senator Mines.

PRESIDENT SHEEHY: Senator Mines, would you yield?

SENATOR CHAMBERS: Senator Mines,...

SENATOR MINES: Yes.

SENATOR CHAMBERS: ...if I want to file an objection to the

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

conversion, and I do it in a timely manner, and if this "substantive" language remains in the law, and the director decides there is no substantive reason, there is no substantive objection being made, there's no substance to it, where can I go if I am not satisfied that that determination by the director was objective and fair?

SENATOR MINES: Well, Senator Chambers, the director decides whether or not there are hearings. He is the last step in the food chain.

SENATOR CHAMBERS: So it could really be a very substantive objection, but there still is no place to go once that decision has been made by the director to deny a hearing?

SENATOR MINES: Well, administratively, that's true. Certainly, if one believes strongly enough in their objection, they could contact the Governor or someone in the Legislature and hope that a hearing could be brought forward. But that's the determination of the director.

SENATOR CHAMBERS: And if those steps that you're mentioning were embarked upon, they would entail an expenditure of time, effort. And if a person went to the Governor or a legislator, a third-party interest is going to have to inform himself or herself of what the issues are, to decide whether or not to try to prevail on the director to conduct a hearing, or make a determination themselves that there should be no hearing. But in any case, time and effort and the involvement of a third party will be required. Would you agree?

SENATOR MINES: That's correct. And one might have to determine if the argument is substantive enough to make a difference.

SENATOR CHAMBERS: So it might be better to just remove "substantive," let the objection be made, conduct a hearing, and be done with it. I don't see anything that says the hearing must last a long time or just go on and on and on, is there?

SENATOR MINES: No, there is not, Senator.

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

SENATOR CHAMBERS: My motion then, my amendment that I'm offering, in effect, would strike "substantive" from LB 876 on page 9 in line 22, and just leave the word "objection" unmodified. Let a person opposed to this conversion object. And I'd like to ask Senator Mines a question. Senator Mines, under this bill, a state bank can seek to convert to national bank status, and the national bank can seek to convert to state bank status, is that correct, under the bill?

SENATOR MINES: Under the bill, it's converting federally chartered banks to state-chartered banks, not the reverse.

SENATOR CHAMBERS: Okay. But a person still could argue that there is some hanky-panky going on in one of these conversions, and that's why there is to be no hearing, and another issue could be injected which could be done away with if they simply entertained the objection and had a hearing.

SENATOR MINES: That is correct. And if I might, I support your amendment.

SENATOR CHAMBERS: Oh.

SENATOR MINES: Again, I had done that same...crossed the same thing in review last night, and "substantive" is subjective. And I'm sure the department will be fine with it as well.

SENATOR CHAMBERS: Oh, okay. Mr. President, I don't think you were paying attention, so the debate must continue. How much time do I have left?

PRESIDENT SHEEHY: Two minutes, thirty seconds.

SENATOR CHAMBERS: Thank you. Members of the Legislature, don't blame Senator Mines for this, don't blame Senator Chambers for this; blame the President and that distraction sitting next to him known affectionately as Senator DiAnna Schimek. And they're still up there just yackety-yakking. This whole thing could be...have been taken care of by now, but they're not paying attention, so we must press on. I'd like to ask Senator Friend a question.

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876

PRESIDENT SHEEHY: Senator Friend, would you yield?

SENATOR FRIEND: Sure.

SENATOR CHAMBERS: Senator Friend, have you followed the discussion that Senator Mines and I have been having on this word "substantive"?

SENATOR FRIEND: Actually, I apologize, Senator, I have been preoccupied with certain other duties. But I will start following, because I think that Senator Mines has informed me that there could be some substance coming forward in this discussion.

SENATOR CHAMBERS: (Laugh) Thank you, Senator Friend. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the opening on FA378. The floor is now open for discussion. Senator Chambers, you were previously queued in on the bill itself.

SENATOR CHAMBERS: This is my amendment.

PRESIDENT SHEEHY: Yeah, correct, so. Discussion on FA378? No requests to speak. Senator Chambers, you're recognized to close.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when I listened to Senator Friend, I thought of a song. (Laugh) Down and down I go, round and round I go, lost in the spin. I don't know what in the world he was talking about. I don't know if Senator Mines has any idea what Senator Friend accused Senator Mines of being on the verge of bringing to us, so I thought I'd just bail out on that one. But this is an amendment which would strike from the bill the two words "a substantive," which modify the word "objection." Senator Mines had made note of it last night himself, the Banking Department is not going to have any serious problem when we remove this word, so I am asking that we adopt this amendment. And thank

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 876, 975

you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. You've heard the closing on FA378. The question before the body is, shall FA378 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of Senator Chambers' amendment, Mr. President.

PRESIDENT SHEEHY: FA378 is adopted. We'll now return to floor discussion on LB 876. No requests to speak. Senator Mines, you're recognized to close on LB 876. Senator Mines closes...waives closing. The question before the body is, shall LB 876 be advanced to E & R Initial? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

ASSISTANT CLERK: 30 ayes, 0 nays on the advancement of the bill, Mr. President.

PRESIDENT SHEEHY: LB 876 does advance. Next item, Mr. Clerk.

ASSISTANT CLERK: Mr. President, next bill, LB 975, introduced by the Natural Resources Committee. (Read title.) The bill was read for the first time on January 9 of this year, referred to the Natural Resources Committee. That committee reports the bill to General File. There are committee amendments attached. (AM2002, Legislative Journal page 500.)

PRESIDENT SHEEHY: Thank you. Senator Schrock, you're recognized to open on LB 975.

SENATOR SCHROCK: Mr. President, members of the Legislature, before I read my opening remarks, I would make...I'd like to make some remarks while maybe some of you are still listening. This is a livestock waste bill. It's the third major livestock waste bill that the Natural Resources Committee has dealt with since I've been in the Legislature. And we're responding to the federal government, because there was a court decision that has changed the playing field. And I will tell you, in the

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 293, 975

livestock feeding world of this state, there's a lot of apprehension. It's very expensive to put in the waste control facilities, and we have a lot of livestock producers that are talking, well, maybe this isn't worth it. The livestock industry is very important to this state, so for them, this is a very important bill. We try to comply with federal regulations, and I think in Nebraska we've done a good job of that. But the playing field keeps changing. We're shooting at a moving target. I would guess it will be a matter of just another year or two before there will be another livestock waste bill in front of you. But my opening remarks will say that LB 975 proposes to amend the Livestock Waste Management Act in response to the 2005 2nd Circuit Court of Appeals decision regarding the U.S. Environmental Protection Agency's rule on concentrated animal feeding operation. And you'll hear the concentrated animal feeding operation, that's referred to as a CAFO. The decision vacated elements of the CAFO rule which the court determined were beyond the authority of the federal agency. The EPA is currently revising its rule to reflect the court action. The EPA is expected to release its new rule for public comment in the spring. The Nebraska Legislature adopted changes to the Livestock Waste Management Act, LB 916 in 2004, to coincide with the EPA's CAFO rule. LB 975 addresses a portion of the act which will allow the state more flexibility to meet the EPA's new program requirements. Specifically, LB 975 eliminates the requirement that all large animal feeding operations are required to apply for National Pollution Discharge Elimination Systems. We call that an NPDES permit. Instead, the legislation requires only those animal feeding operations which discharge to waters of the state to apply for an NPDES permit. LB 975 also creates a new construction and operating permit program for those operations which are not covered under the CAFO rule or are not exempt from Livestock Waste Management Act. LB 975 also addresses two other areas beyond the focus of the EPA's CAFO rule. First, LB 975 clarifies that no new animal feeding operation will be issued an NPDES permit or a construction and operating permit in any other part of any watershed that feeds directly or indirectly into a cold water class A stream. Secondly, LB 975 incorporates components of LB 293, introduced in 2005, which requires the Nebraska Department of Environmental Quality to send a copy of

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

construction and operating permit applications to natural resource districts and county boards within five days of receipt. It also increases the amount of time from 20 to 30 days that NRDs and the county boards have to comment on an application. This bill and the amendment, AM2002, coming up, which was presented by the Department of Environmental Quality after a meeting with Senator Preister's staff, Senator Kremer's staff, the Department of Agriculture, the Sierra Club, the Farmers Union, the Cattlemen Association, the Farm Bureau, and the Pork Producers, and various other groups over the interim. In 2004, we passed LB 916 in response to EPA's ruling on concentrated animal feeding operations, which has since been overturned by the 2nd Circuit Court. Because LB 916 was tied to the federal regulations, we needed to amend our statutes to be in conformity with the circuit court decisions. Believe me, it was not my desire to have a livestock waste bill in front of you this morning. And I thought, after 2004, we would be done with it. But we are not; we're back. And like I said, there's a lot of apprehension out there. I have a neighbor who has a 6,000-head feedlot. He's going to have to make a major investment in his feedlot or quit. And I'm talking about probably \$200,000, what it's going to cost him. And I hear this every day, and you hear it from the livestock people. Fortunately, most of them, I think, will stay in business, and some of them may even expand, because if you're going to make that kind of investment, you need to spread that out over more animal cost, and so they're probably going to expand a little bit. And unfortunately, the larger facilities already have their facilities in place, so it seems to be the mid-sized people that are getting hurt the most. I would appreciate your consideration on this. If you have any questions, I'll try and answer them. I assume the amendment, AM2002, will be next up, and I'll explain that.

PRESIDENT SHEEHY: Thank you, Senator Schrock. First amendment, Ms. Clerk.

ASSISTANT CLERK: Mr. President, Natural Resources would offer committee amendments.

PRESIDENT SHEEHY: Thank you. We'll now move to the Natural

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 120, 975

Resources Committee amendment, AM2002. Senator Schrock.

SENATOR SCHROCK: All right. This is the amendment. And what it does, it reinstates the definition of "construction approval," adds a new definition for "construction and operating permit," and adds a definition of "operating permit." That's in Section 2. In Section 4, it incorporates the committee's amendment to LB 120 of 2005 regarding cold water class A streams. And we have a cold water class A stream bill in this state, thanks to some people that...Dave Sands, for one, which protects our trout streams. And what this does, it says, if you're within one mile of that trout stream, you cannot expand. If you're between one mile and two miles, you can expand. If you're a research facility associated with the university, you can expand. And we have that situation out in Scotts Bluff County, where they have a facility where I think they're confining about 999 head, and they can't go over 1,000. And I think the university, to fully implement their research out there, needs to go to about 1,200. So we allow them to expand. We have worked with the environmental people, we've worked with Rob Shupbach from Trout Unlimited, and I've asked them to compromise on this. They have, and so they're on board. It still does not allow any new expansion in that two-mile zone. I have maps, if you'd like to look at them, on what streams in this state are protected. It does not represent a large chunk of real estate in this state, but it does have an impact in the Panhandle, and certainly Senator Loudon and Senator Smith were concerned about this. In Section 7, AM2002 adds clarifying language that any animal feeding operation which does not have any permit on the effective date of this act would be subject to provisions of the Environmental Protection Act, Livestock Waste Management Act, and rules and regulations. Section 8 reinserts the stricken language on page 7, which was inadvertently stricken. Section 15 requires the Environmental Quality Council to develop rules and regulations regarding construction and operating permit issuance, denial, revocation, termination, or transfer. And the Environmental Quality Council, we talked about that earlier, because we had a couple of people appointed to that. It requires the council to develop rules and regulations regarding construction and operating permit and National Pollutant Discharge Elimination Systems permit, major

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

modification issuance, denial, revocation, suspension, or termination. Section 16 extends the date from July 1, 2007, to December 31, 2007, for those facilities to request reinstatement of permits that expired by regulation on December 31, 2005. And Section 30 adds the emergency clause for Section 7, repeals references to the federal law for Section 16, reinstatement of expired permits, and for Section 18, repealer of Section 54-2424. What we're trying to do here is, in...with LB 916 two years ago, we tried to say you only had to have one permit. With the court ruling, we've got to go back to make sure that we are in compliance on the state level, and only those facilities with a potential discharge will be covered. But I will tell you, any livestock facility of any size certainly has the potential to discharge, and so this covers all of our livestock waste...all of our livestock facilities with any size at all. That's my remarks on the amendment. If you have any questions, I'll be trying to...I'll be glad to try and answer.

PRESIDENT SHEEHY: Thank you, Senator Schrock. You've heard the committee amendment from Natural Resources, AM2002. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, on this bill I've read just enough to be uncertain. Senator Schrock, would you turn to page 7 of your amendment?

SENATOR SCHROCK: We're doing so, Senator Chambers. We're there. We're there.

SENATOR CHAMBERS: In lines 8 through 14, is that language talking about an expansion that's possible if it takes place more than one mile, less than two miles, from this cold water class A stream?

SENATOR SCHROCK: Yes, it is, Senator Chambers. And what I'm going to have do, I'm going to have staff run you down a map so you can see where these cold water streams are.

SENATOR CHAMBERS: Oh, I don't need to see where they are. I thought I heard you say there would be no expansion in that

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

area.

SENATOR SCHROCK: There will be no new facilities in that two-mile area. There will be no expansion within a one-mile area. But a current facility within one mile to two mile can expand if the DEQ determines they will not pollute.

SENATOR CHAMBERS: Okay. Now I got clear what you had said earlier. Here's...

SENATOR SCHROCK: And I don't always say things clearly, so I appreciate your being involved.

SENATOR CHAMBERS: Well, sometimes I don't listen closely.

SENATOR SCHROCK: (Laugh) Okay.

SENATOR CHAMBERS: When we look at page 6, we see where the university may expand if the department determines, based on scientific information provided in the application or other available information, that the proposed expansion does not pose a potential threat to the stream. When they say "other available information," they must mean nonscientific, isn't that true?

SENATOR SCHROCK: I think...

SENATOR CHAMBERS: Because they've already said, scientific information or other available...and I would insert, nonscientific information. If it's scientific, then it's covered by the first clause.

SENATOR SCHROCK: Well, they can develop their own scientific information, Senator Chambers, the department can. And...

SENATOR CHAMBERS: So this "other available information" means what? Other scientific information?

SENATOR SCHROCK: Well, I don't...if it isn't scientific, I don't think the DEQ would accept it, Senator Chambers.

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

SENATOR CHAMBERS: Then why don't we just strike "or other available information," and base it on scientific information provided in the application or otherwise, instead of saying, "or other available information"?

SENATOR SCHROCK: Senator Chambers, there may be other scientific information that's not available in the request to expand, and so I don't think we want to do that.

SENATOR CHAMBERS: Then why don't we say "other available scientific information"?

SENATOR SCHROCK: That would be fine.

SENATOR CHAMBERS: Okay.

SENATOR SCHROCK: And like I...Senator Chambers, like I said, the university now has about 999 head. They can't go over 1,000. And to do the research they want to do, they probably need to expand to about 1,200. And so we would like to accommodste that, and we don't think that will be a threat to the stream, and so that's what we're doing.

SENATOR CHAMBERS: And because there are people who understand this area, I'm not challenging that. But I don't want to loosen this and do away with the requirement that these expansions be based on scientific information. And I really had my attention called to it because when we go to page 7 and we're talking about an existing animal feeding operation and so forth, which is not under the auspices of the university, where they're going to expand within that one mile to...

SENATOR SCHROCK: Two mile range.

SENATOR CHAMBERS: ...two mile, yes, it has the same language structure, based on...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...scientific information provided in the application or other available information. So in both those

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

places, I would insert the word "scientific" in front of "information." And if you would agree to that, then I would draft an amendment while you discuss the rest of the bill, if you agree.

SENATOR SCHROCK: I do agree, Senator Chambers. And if you want help drafting it, we can accommodate.

SENATOR CHAMBERS: I think I can handle that one. (Laugh)

SENATOR SCHROCK: All right.

SENATOR CHAMBERS: But thank you. And I work with your staff very well, so it's no put-down. But this one, I think, even I cannot mess it up.

SENATOR SCHROCK: Well, like I said in my opening remarks, Senator Chambers, I worked hard with the sportsmen on this, with the...an organization called Trout Unlimited that Rob Shupbach is involved in. I asked them to compromise, and they agreed to this. Certainly, the cattlemen and some of the ag groups wanted to go further. But I said, well, we've got to find a balance. And I thought this was where we were at, and so this is what I'd like to do.

SENATOR CHAMBERS: And that's why...

PRESIDENT SHEEHY: Time, Senator Chambers.

SENATOR CHAMBERS: Oh, my time is up? Okay.

PRESIDENT SHEEHY: Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I rise in support of LB 975 and the committee amendment. There are some things in it that I like, and some things that I have some concerns about, but in a general sense, I do want to support this. I appreciate the committee counsel's work, and others involved, to try to accommodate some realities in western Nebraska, and that is that water doesn't flow uphill. (Laugh) And so we've really noted that, and I'm proud that we have. But

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Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

the fact is, we have a regulation on the books right now that is a bit cumbersome. And given the fact that water does not...or, actually, liquid does not flow uphill, that this amendment does appear to be quite reasonable. I do have a question of Senator Schrock.

PRESIDENT SHEEHY: Senator Schrock, would you yield?

SENATOR SCHROCK: Yes, Senator Smith.

SENATOR SMITH: Senator Schrock, now there is specific...a specific exemption given to the university operation. Is that accurate?

SENATOR SCHROCK: That is correct.

SENATOR SMITH: Okay. And I like that fact. I would prefer that some other people be involved with that exemption, too.

SENATOR SCHROCK: I understand.

SENATOR SMITH: And so I would ask for some clarification, or at least some confirmation that this would not be creating a closed class. And perhaps we can get to it later.

SENATOR SCHROCK: Okay. All right.

SENATOR SMITH: I don't mean to put you on the spot.

SENATOR SCHROCK: I'm not quite prepared to answer that.

SENATOR SMITH: Okay.

SENATOR SCHROCK: But...

SENATOR SMITH: That would be some concern that I would have. And perhaps we can get an explanation later. So, thank you, Senator Schrock.

SENATOR SCHROCK: All right.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

SENATOR SMITH: Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Smith. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I do rise in support of the amendment and also the bill. And I want to personally thank Senator Schrock and his legal counsel, Jody Gittins, for all of the work that they have done on this bill. This is actually the first time that I have seen all of the major farm organizations and all of the ag groups come together and support one bill. It was very encouraging to see that effort the day of the hearing. This is a good bill. Just mentioning a little bit about the importance of livestock production in our state, it is over a \$6 billion industry, and it accounts for about 64 percent of all agriculture cash receipts in our state. Livestock are also the largest consumer of grain, and particularly corn and soybeans, in our state. Sixty percent of the corn that is harvested in our state is fed to our livestock. So this is an important bill, because we have been having some concerns about the permitting process, and has been earlier stated that some of the costs that these producers are having to endure because of this permitting process. And it's actually having a reverse effect in the fact that they are needing to spend over...well, some of them, over \$200,000 to get this permitting process. So then they expand their feedlots to try to accommodate those extra costs. And I think we would all prefer the smaller livestock operations, but this is just not possible in the world that we live today. This amendment, I believe, is very good in the fact that it does allow the state more flexibility. And particularly since the court case, that is something that we are particularly needing. I will give the rest of my time to Senator Schrock, if he would...he does...he waives off. But thank you, and I ask for your support of this amendment. Thank you.

PRESIDENT SHEEHY: Do you have an amendment at the desk, Mr. Clerk?

ASSISTANT CLERK: Mr. President, Senator Chambers would move to amend. (FA379, Legislative Journal page 519.)

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on the amendment to the committee amendment.

SENATOR CHAMBERS: Thank you, Mr. President. This amendment states that on page 6, in line 16--and, Mr. Clerk, if you'll look with me and make sure that I have the right lines and page number, because Senator Schrock doesn't play around when you're on his bill--the amendment should say, on page 6 in line 16, and on page 7 in line 13, after the word "available," insert the word "scientific." That's what the amendment would do, and it's what Senator Schrock and I had discussed. We're talking about the expansion of an existing facility, and the expansion is going to occur within a certain distance of one of these cold water streams or watersheds, and in the application for the expansion there must be provided scientific evidence to establish that if the expansion is allowed it will not pose a potential threat to this stream. But, in addition to the application having to have scientific information, the current language says "or other available information." Senator Schrock said his thinking in that regard is based on the idea that there could be other scientific information available which was not contained in the application. Perhaps it was not known at that time or available. Since I want to be sure that we're not lowering the standard by saying there must be scientific information in the application to justify the expansion, but then offer an alternative route which simply says "other information," but it need not be scientific, I want to have the assurance and have the statute contain that assurance that if there is other or additional information which is not contained in the application, that other information must also be scientific in nature. So at both places in the bill where we have that alternative expressed in the words "or other available information," the word "scientific" would be inserted between "available" and "information," so that it reads "or other available scientific information," meaning that although it's outside of the application, it can be made use of and applied in this process to show a justification for the expansion, because based on that other scientific information the expansion will not pose the threat of harm to this stream that is being protected. If you have any questions on what I'm doing, I'm prepared to answer them. Thank you, Mr. President.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Louden, followed by Senator Preister and Kopplin. Senator Louden.

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. Of course, I support the entire amendment, AM2002, to the underlying bill. And I've always had some misgivings about this two-mile stream deal in a cold water stream, because that was the case where they passed some laws and didn't realize what they were getting into at the time. That law was passed several years ago when they had a problem up in northwest...or northeastern Nebraska someplace, and they thought that was the only cold water stream. And after the law was passed, they found out that there's more cold water streams in western Nebraska than there are in the rest of the state. There's some of these cattle-feeding areas that are next to rivers that get by with it, mostly because they haven't been described as a cold water stream. So I think it's a probably legislation that we probably didn't need. I think the Department of Environmental Quality and those people can probably decide whether a feedlot should be there, but nonetheless, I compromised and went along with the way the bill is written. And at least it helps with the university, gets them going to where they can have their feedlot operation going and go on with some of their scientific research. Getting to Senator Chambers' amendment here, as he's described it, too, with the scientific information, and the reason that was in there, if I remember, since I'm on the Natural Resources Committee, there was testimony that came about and there were some people from some of the environmentalist group that didn't trust scientific all the time. They thought they had information that could be given that wasn't necessarily classified as scientific. So, if I remember correctly, that's the reason some of that was left in there at the time, is mostly to pacify those people. But if Senator Chambers wants to change that and put "scientific" in there, why, I'll certainly vote for that part of his amendment and go along with that. So, as near as I can remember, that was the reason that was put in there. I think, for the most part, this is something that we need to go forward with. We can't put too much of a kibosh to the feeding operations in Nebraska. It's one of the major ways of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

value-adding to our farm products. It value-adds to the corn in an enormous number. As Senator Stuhr pointed out, over 60 percent of the corn grown in Nebraska is fed locally to livestock. Not only that; a lot of the livestock produced in Nebraska is fed here, added...value-added to, and sent on down as a finished product in other places. So I think this is something that needs to be brought forward and we continually work on it. Thank you, Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Loudon. Senator Preister.

SENATOR PREISTER: Thank you, Honorable President, friends all. I will start by saying that I support Senator Chambers' amendment, I support the committee amendment, and I support the underlying bill. Having said that, when I pressed my light we didn't have the amendment and Senator Loudon hadn't spoken, so let me start with correcting something that Senator Loudon said. I served on the Natural Resources Committee and so did Senator Schrock, and we had Game and Parks come in and testify and they brought maps, Senator Loudon, of all the cold water streams in the state. So to say that we didn't know there were cold water streams in other parts of the state is really a disservice to Game and Parks and to the committee. We knew all the cold water streams in the state. We had background information and it wasn't just Congressman Osborne bringing a bill trying to limit where the CAFOs were in these cold water stream watersheds. We had the scientific information. We knew where they were and the decision to pass the legislation was a comprehensive piece of legislation that dealt with other things as well. But we had information. We knew where those cold water streams were. So I want to make sure that the record is correct and to make this statement now, which I hadn't gotten up intending to say. Moving away from that, Senator Chambers is trying to bring a scientific approach based on science into the assessment. I support that. There have been discussions about whether something is scientific or not scientific in a lot of these CAFO discussions, and sometimes people are accused of not using sound science. However, sound science is usually whatever the person talking about it wants it to be. When it's somebody else and their issue, it's emotional. When it's mine, then it's sound science. So I'm all for basing the decisions on science and the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

information that we have and that isn't something that producers necessarily just advocate for, or environmentalists just advocate for. I think if we base it on scientific information and fact, that's a good thing and it takes away some of the other arguments. So, looking at it from a scientific point of view is not just an appeasement of environmental groups. It's what everybody asks for. And when we use sound science, it needs to be truly that and truly be objective. So Senator Chambers' amendment adds that dimension and I'm fine with that. What I had pressed my light to get up to say was to thank Senator Schrock and his staff and the other people that have been working on this bill. I've had a number of meetings in my office, I've worked on it, I've worked with some of the people that initially had concerns and opposition, and I think we have, as Senator Schrock said, as Senator Stuhr also accurately portrayed, everybody on the same page, working together, and it doesn't always happen. It's always my goal to sit down and work with people and find common ground and see where we can agree and move forward by doing that. This is one where that has happened, and right now I stand in support of that process. Thank Senator Schrock for his efforts and Jody Gittins for hers in doing that, and for that reason I support the...

PRESIDENT SHEEHY: One minute.

SENATOR PREISTER: ...committee amendment and I support the underlying bill. It has been a challenging process, as all of these like-minded and like-type bills have been, but on this one I think we have pretty much agreement that this is the way to respond to changes at the EPA federal level that we don't have a whole lot of choice in. Would this bill be before us if it wasn't for that? No. Would it be in this form, or would we even have to address some of these issues and make changes to the various categories that we had implemented years ago? No. So this is what we can do given the circumstances that we have. It has been a challenging process, as many of these issues have been, but it has been a good process, a process that I respect. I appreciate having worked with the cattlemen, with the Farm Bureau, with the pork producers, and I support the committee amendment...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

PRESIDENT SHEEHY: Time, Senator Preister.

SENATOR PREISTER: ...and I support the underlying bill and I thank everyone that has been involved. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Preister. We have Senator Kopplin, followed by Senator Schrock, followed by Senator Stuthman. Senator Kopplin.

SENATOR KOPPLIN: Thank you. Members of the body, I stand in support of this amendment and all the...the committee amendment, the underlying bill. I do get concerned about cold water streams and the streams of all of our state. I think probably the original two miles was the compromise. But certainly I support the cattlemen and the industry that they support in this state. It's of vital importance to Nebraska. I thank Senator Schrock and Jody for the work they did to bring these things, this compromise, about. I believe the changes to the one mile and the reasoning behind the university exemption are valid and certainly I can go with that. I believe Senator Chambers' suggestion that this...that we insert the word "scientific" improves the bill and for that reason I support the amendment and the underlying amendment and bill, and would urge the support of the rest of the body on those issues. Thank you very much.

PRESIDENT SHEEHY: Thank you, Senator Kopplin. Senator Schrock.

SENATOR SCHROCK: Mr. President, members of the Legislature, I appreciate everybody's comments. Senator Stuhr, you're exactly correct. The livestock operations in the state are very important to the economy. Senator Loudon, I'm going to disagree with you a little bit, but hopefully it's in a friendly way. We did know what we were doing when we passed the class A stream. I will tell you, though, that I was alarmed when I saw the impact in the Panhandle. We did grandfather existing facilities, but I'll tell you, I made a special trip up to Long Pine to look at that, where they were proposing a rather large hog confinement operation right on the banks of Long Pine Creek. We, the committee, has been to Verdigre Creek to look at that and we've seen the Game and Parks trout fish hatcheries there,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

so we knew what we were doing. But I am trying to lessen the impact on livestock facilities and still protect those streams. Yes, I was alarmed when I saw that the Panhandle had some class...some streams out there where there is livestock operations. So if you're an existing operation out there, you're grandfathered if you're within one mile. If you're outside of one mile you can expand. If you're outside of two miles...if you're going to build a new facility, why would you want to hassle with that anyway? Get outside the two-mile range. That bill was probably the brainstorm of a gentleman by the name of Dave Sands. He brought the issue to me and I said, what can we do, and that's how we got there. And Dave Sands has been a wonderful help on a lot of issues. He's a member of the Water Policy Task Force. Finally, I'd like to give credit to the Department of Environmental Quality for their work on this. They've worked hard on it. Tom Lamberson has been excellent to work with. And we think we have a bill here that needs to be passed and, with that, I'll conclude my remarks.

PRESIDENT SHEEHY: Thank you, Senator Schrock. Senator Stuthman, followed by Senator Erdman and Senator Kremer. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I am supportive of this amendment, but I would like to engage in a little bit of a dialogue with Senator Chambers, if I may, please, if he is available.

PRESIDENT SHEEHY: Senator Chambers, would you yield?

SENATOR CHAMBERS: Yes, I will, Mr. President.

SENATOR STUTHMAN: Thank you, Senator Chambers. In inserting that "scientific" between "available" and "information,"...

SENATOR CHAMBERS: Yes.

SENATOR STUTHMAN: ...realistically, are we doing a duplication there? And I'll give you my reason for that and I'll read, you know, as it is stated in line 15: a department determines based on scientific information provided in the application or other

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

available scientific information. So, in my mind, we're dealing with only scientific information. In my opinion, we could...we could strike from line 15 "or other available information," and I would say that it could read, "based on scientific information provided in the application that the proposed expansion does not pose a potential threst to the stream." Would you...would you think that would be better, or do you think we should have like your amendment is with "scientific information" twice in there? Because according to that, we can only have scientific information, you know, available, and anything has to be available because it's information provided in the application. So I'm looking at there may be a possibility of duplications, or am I looking at this wrong, Senator Chambers?

SENATOR CHAMBERS: Senstor Stuthman, Senator Schrock and I went over this very thing, and my first inclination was to strike "or other information." But, as Senator Schrock pointed out, if that were done, the only information that could be considered would be that contained in the application. The person offering the application may not be aware, when the application is offered, of existing scientific information that would have a direct bearing. So if we limited it only to the scientific information in the application, the other scientific information would not be usable. So the purpose of this amendment is to say, we will have the applicant provide whatever scientific information he or she can to show that there will be no harm done to the stream if the expansion authority is granted. But there may be other scientific information not contained in the application which would have a direct bearing, so what it really is trying to do is make accessible, pursuant to the terms of the statute itself, whatever scientific information may be acquired during the process and use that in reaching a final decision. And could I make one other comment?

SENATOR STUTHMAN: Yes.

SENATOR CHAMBERS: In a way I'm like Shakespeare, but in many ways I'm not. He had some of the best writing of all time, as people agree, whether one person named Shakespeare did it or not, but he also had a lot of the worst writing, because each word that he wrote was like a child and, not being in favor of

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

infanticide, he would not eliminate any word. So he had a lot of good, a lot of horrific. In this case, it's not a matter of just wanting to preserve the words because I offered the amendment, but I think there's a legitimate argument that Senator Schrock made against striking that phraseology "or other information." But I thought that, by itself,...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...would allow, if you had no information of a scientific nature in the application, to just rely on other information that is not scientific at all. So if we make it clear that whatever information is used that will have a bearing on the outcome it should be scientific, then I don't think there's a redundancy.

SENATOR STUTHMAN: Okay. Thank you, Senator Chambers. And then realistically we're dealing with, you know, the information provided in the application and we're dealing with information that is other than what is provided in the application, that that information needs to be based on sound scientific information. So that is the way we understand it then.

SENATOR CHAMBERS: Yes, you're correct.

SENATOR STUTHMAN: Okay. Thank you, Senator Chambers. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, I rise in favor of LB 975, and I appreciate the work that the Natural Resources Committee has done, not only over the past few years, but this year specifically with the hearings that they've had in the rural part of the state to allow the producers to come in and to discuss the new program and how it was being implemented, in addition to how the federal lawsuit was affecting the authority of the EPA. So I think they have done their due diligence in trying to come up with something that gets us through this process, and I'm grateful for that. And I know that a lot of the individuals that I

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

represent who have some concerns are looking for direction. I think the Legislature is going to provide them that with LB 975. I'm also in favor of the committee amendment, and I would share some of the same thoughts that Senator Smith would as far as the restriction that is maintained. Although it is more flexible, which I am grateful for, I think that there would be a better way and hopefully there's an opportunity to find that reality. Because I think, as Senator Preister pointed out, there was an understanding of what was being done when the original legislation was passed, and I think there was some comments made about who was involved in that previous process. It's my understanding, and I have seen recent articles about this, that those that were involved in the process, when they have been informed of the impact that this has had on those facilities and in those areas of the state that were not intended to be addressed by the legislation but, rather, that it was a, if you will, a rifle shot to solve a specific problem in one part of the...the part of northern Nebraska, that they didn't understand the impact it was going to have on places like western Nebraska. And the testimony or the comments that I've heard them say is, if that's the case, we need to fix the law. And I believe those were the comments of our current congressman from the 3rd District, Tom Osborne, and I will do my best to get a copy of that article from the local paper where he made those comments. But he agrees that we need to fix the law on the cold water streams. I think the Legislature recognizes that. I think we can discuss what that looks like. Again, I think there's going to be some other ideas that may help, but I think this is a good step and I hope that the Legislature will be willing to have that discussion and recognize the impact that these policies may have. While they're trying to solve another problem, they may have some unintended consequences. So we truly didn't understand the impact, and once we understand the impact I think it's our responsibility to respond to that and to address that. Mr. Lieutenant Governor, if I have any time left, I would be happy to yield that to Senator Loudon.

PRESIDENT SHEEHY: About 2, 40.

SENATOR LOUDON: Thank you, Senator Erdman, and thank you, Lieutenant Governor. As I think Senator Preister pointed out,

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

that they had maps and knew exactly what they were doing in those areas when they were going along with this two-mile limit on the cold water streams, and I'm sure they were concerned about what was going on, as Senator Schrock pointed out, up in around Long Pine and Verdigre Creek and those areas like that. But evidently nobody took into account how...such as Tub Springs or something in western Nebraska goes up between two huge buttes or two huge hills, and when you put two miles on each side of them, why, there's no way that there would be any feedlot activity that would ever bother Tub Springs when it has to climb over a hill that's probably 200 feet high. So there was consequences like that, and I'll stand by what I said before, that I think when that bill was passed, which was before I...it wasn't on my watch down here, but I think there was some impact that wasn't considered. Because even at the present time you have Hat Creek and some of that on the north slope of the Pine Ridge sres that nobody has had any consideration whatsoever. The deal is, nobody has bothered to feed cattle up there at the prasant time, but there are some ranches up there that do pen up their cattle at different times of the year and in the future they may do so, so this could impact that. So when you do this and take the authority out of the DEQ and some of those people like that, you have to be very careful when you start setting parimstars on how far you can...you can operete from certain streams. Now, it's mostly a clasas A cold water stream. You have...

PRESIDENT SHEEHY: One minute.

SENATOR LOUDEN: ...feedlots right along the Loup River and there's no one that ssems to have any problem with that. So, to me, a river is a river. Thank you, Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Kremer.

SENATOR KREMER: Thank you, Mr. Lieutenant Governor and members of the Chamber. Thank you for this opportunity to speak to this, and thanks to the Netural Resources Committee and all the work that Senator Schrock has done and his staff. I have attended, over the last couple years, several meetings with the District 7 EPA, the DEQ and all the intereated parties, and come

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

away with about each one of those meetings of confusion, not anybody knowing really which direction it's going. And as things have changed with the EPA, I think it's very important that we come back with this legislation and be responsive to what needs to be done. I was very pleased at the hearing that we had support from even the groups that have normally been opposed to this. And as Senator Stuhr mentioned, the impact of livestock in our state is very substantial, and especially with all the ethanol plants coming on, how we need livestock. And we need to be responsive to our water quality and our air quality, and I think livestock people are concerned about that, but sometimes other things enter into the debate. One of the groups that's normally opposed was invited to come out to a feedlot in my area, which is a small feedlot of about 1,500 head, and look at what the requirements were, that they were going to have to spend \$150,000. And the wife of this individual really would like to have them quit because it just doesn't feel like it's worth it all. And this person that normally would be opposed to it came away and said, this is not what we intended to do. And we thought all the time that it's hurting our smaller producers, the 2,000 to 3,000 to 1,000 head, more than the big ones, and that's been the intention many times of putting more restrictions on to stop these large operations, but it's almost...it's doing the opposite of that. And so I was glad when people saw that...what's really happening to the industry, and while we're almost forcing the small ones out of business and going to larger operations. So many times in agriculture we aren't really looking for a lot of incentive, but let's take away some of the disincentives, and I think this is one of them, just in the cost requirements to meet all these qualifications on some lots. This lot that I was talking about is just extremely kept up well and clean. They had to even take out trees that were there for a purpose, just in order to get the waste facilities in place. And the cost of another one in our area is about \$200,000, and it gets to the place where you just can't afford that. So I will support Senator Chambers' amendment and I support the bill as is amended. And thank you. You can...I'll turn the rest of my time back to the Chair.

PRESIDENT SHEEHY: Thank you, Senator Kremer. Senator Engel.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

SENATOR ENGEL: Mr. Speaker, members of the body, I'd also like to commend my partner here, Senator Schrock, for all the work he's put into it, and his committee. I think they've done a wonderful job and I think it's so important we do something like this for our small cattle feeders in the state of Nebraska. There's a lot of them up in my area. The only thing, I had a complaint...a couple complaints. One was, what is a stream? You know, is a little ditch that turns into a stream about two miles away, and so forth? But I think they've taken care of that here in this particular bill. And another thing, as far as some will say, well, the fine, there should be a cap on it, but...because they did not realize that there was such a penalty to pay. Well, I think probably information is the thing that we have to take care of here, making sure the livestock feeders know what the law is. In fact, they should if they're in the business. So I think they'll...I'm sure they'll deal with that. But again, I'd like to commend my seatmate here, Senator Schrock, for all of his good work.

PRESIDENT SHEEHY: Thank you, Senator Engel. Senator Pederson.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, I just wanted to rise and congratulate Senator Schrock for finally bringing a bill to us that didn't have a big financial impact. Thank you. (Laughter)

PRESIDENT SHEEHY: Thank you, Senator Pederson. Further discussion on FA379? Seeing none, Senator Chambers, you're recognized to close on FA379, amendment to committee amendment.

SENATOR CHAMBERS: Mr. President, members of the Legislature, from the discussion, it seems that there is no objection to this amendment so I will not prolong the debate, and simply ask that we adopt it. And I will ask for a call of the house so that we can get it done. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Chambers. The question before the body is, shall the house be placed under call? Those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 26 ayes, 1 nay, Mr. President, to place the house under

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

call.

PRESIDENT SHEEHY: The house is under call. Would all unexcused senators please return to the Chambers. All unauthorized personnel please step from the floor. Senator Beutler. Senator Johnson, Senator Heidemann, the house is under call. Senator Chambers, we're okay to proceed?

SENATOR CHAMBERS: (Microphone malfunction)...Mr. President.

PRESIDENT SHEEHY: The question before the body is, shall FA379, amendment to the committee amendment, be adopted? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 46 ayes, 0 nays on adoption of the amendment to the committee amendments.

PRESIDENT SHEEHY: FA379 is adopted.

CLERK: I have nothing further pending to the committee amendments, Mr. President.

PRESIDENT SHEEHY: Call is raised. We'll move back now to AM2002. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I just have a couple of questions that I would like to ask Senator Schrock.

PRESIDENT SHEEHY: Senator Schrock, would you yield?

SENATOR SCHROCK: Yes, I will, Senator Chambers.

SENATOR CHAMBERS: Senator Schrock, during one session I was always offering an amendment when a reference was made to a federal statute that said, words to the effect, as...the form it was in as of a certain date. I notice on page 15, in lines 5 and 6, we say, "40 C.F.R. 122 and 123, as such regulations existed on January 1, 2004." But on page 5, line 18, and page 13, line 24, I will read what it is. It's talking about the federal Clean Water Act, and it simply gives the citation to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

the act, but it doesn't say, as such act existed on a certain date. So is there no specification of the date as regarding the date we're going to look at in adopting this Clean Water Act, by reference? Because somewhere else there's a provision which says, when that language appears, it means as that act existed on a certain date. I don't see in the bill where anything like that appears. But the two citations, I will give them again since you're looking, page 13, line 24, and page 5, lines 17 and 18. What I'm asking, is there any need to insert the language, as such law existed as of a certain date?

SENATOR SCHROCK: Senator Chambers, you are correct. The language on page 5 and 13 are the same. I'm advised by counsel that it's not necessary for us to include the date like we did on page 15.

SENATOR CHAMBERS: And could I be told why not? Because the way it is now, if Congress amends that act, then our statute would automatically be amended, which we cannot do because it's an unconstitutional delegation of our legislative power. And whenever we refer to a federal statute or any law someplace else, we have to give a specific date so that we are freezing in place that particular law and not saying that the jurisdiction whose law it is can amend that law and automatically our statute would be amended along with it. So what I'm asking is why we don't have that language which would say, as it existed on a certain date.

SENATOR SCHROCK: Senator Chambers, we didn't change the current law.

SENATOR CHAMBERS: I know, but that doesn't mean that it's correct. I was reading through the bill and I saw those references.

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: So let me ask another question while we're at it. On page 5, when we get to lines 18 and 19, the reference to the Environmental Protection Act, is that federal, or is there a state act by that name? And also, the Livestock Waste

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

Management Act, is that a federal or a state enactment that is being referred to?

SENATOR SCHROCK: Both of those are state, Senator Chambers.

SENATOR CHAMBERS: Okay. So we're all right there. But on the federal, if you can find out between now and when the bill comes up on Select File why there is not that saving language, which we do find on page 15, in lines 5 and 6, "as such regulations existed on January 1, 2004."

PRESIDENT SHEEHY: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

PRESIDENT SHEEHY: Senator Chambers. This is your third time on AM2002.

SENATOR CHAMBERS: Thank you, Mr. President. And, Senator Schrock, so I don't leave this hanging, on page 15 there is a reference in lines 5 and 6 to federal regulations with the language attached, "as such regulations existed on January 1, 2004." Now, if someplace in connection with this legislation which LB 975 is amending there is a statement that any reference to this Clean Water Act means the Clean Water Act as it existed on a certain date, then I don't have the problem, because it was taken care of elsewhere. But if there is no language of that kind, I'm not aware that the federal Clean Water Act can simply be incorporated by reference without saying, as it existed on a certain specific date. But I will not offer anything at this point because I don't want to hold up the bill. And you mentioned all the cooperation there had been, and I don't want to give the impression that I'm opposed to the bill or trying to derail it. So you may have something you will offer to me, and since this is my third time, I'll just wait until you consult with counsel, if there's information that is available.

PRESIDENT SHEEHY: Senator Schrock, would you...

SENATOR SCHROCK: Yes, Senator Chambers, we will take a look at it between now and Select, and if there's...

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

SENATOR CHAMBERS: Okay.

SENATOR SCHROCK: ...there's something needs to be done, we'll work with you or DEQ and get it done right.

SENATOR CHAMBERS: Well, you always have. That's why I'm not concerned about letting this bill move.

SENATOR SCHROCK: All right.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Schrock.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Further discussion on AM2002? Seeing none, Senator Schrock, you're recognized to close. Senator Schrock waives closing. The question before the body is, shall AM2002 be adopted? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of committee amendments.

PRESIDENT SHEEHY: AM2002 is adopted. We'll move back to further discussion on the original bill, LB 975. Senator Beutler.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, I'm in favor of this bill and I commend Senator Schrock for seemingly getting more groups together than have ever cooperated in the past. I do want to note some of the existing language on page 15. It notes there that existing cattlemen, plus all of those that are defined by the new language, shall pay a per-head annual fee based on the permitted capacity identified in the permit. And I just wanted to bring to your attention that the idea of a regulatory fee, not only do we apply it widely and, in many cases, for 100 percent of the cost of the regulation, but even within agriculture the cattlemen are paying a part of the costs of regulation. It varies between 15 and 30 percent, depending on what's happening

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

out there at a particular point in time, but I wanted to...we will be discussing again an irrigation conservation fee, and I think that this is an example of where a fee has been paid and is being paid by agriculture to help pay a part of the regulatory costs. Now, the regulatory costs in the area of water are going to be much, much higher than the regulatory costs here, but I think, in accordance with the philosophy that we've adopted almost across the board, at least a part of the regulatory costs are paid by the people being regulated. And it's kind of interesting to compare irrigators to cattlemen. I mean, in one sense the cattlemen have no federal subsidies, and they're paying a fee. The irrigators have huge federal subsidies and they're still refusing to pay any sort of...make any sort of contribution towards the regulatory costs. Another comparison might be with respect to the cattlemen. For the fee that they pay, they get nothing but a handful of regulation. With respect to the irrigators, they're getting free water from the taxpayers of the state of Nebraska, which is their most important production input, next, perhaps, to the seed of corn itself. And yet, notwithstanding getting that very, very valuable input, they are not willing to pay any fee, as the cattlemen are paying. Thirdly, that water to irrigators is particularly valuable because it allows them to produce a good per-acre yield in years when the rest of the country may be in a drought and not able to produce much corn, and they benefit then from a price advantage or from a production advantage that goes with that particular set of circumstances. All of these things, I think, should be taken into consideration.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: And what I'm...what I'm arguing for with this analogy would be an irrigation conservation fee that applied to all irrigators, because all irrigators everywhere in the state are subject to regulation. They're a part of the regulatory system. So, in accordance with the philosophy we've followed almost across the board, they should be helping out with a part of the cost of regulation. Now I want to talk a little bit more about doing it differently, if you wanted to, but one way or

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

another, the whole state, or by portions of the state, they should be helping with this situation and we should not be taking General Fund money to address the situation. I'll...I would...

SENATOR CUDABACK: Time.

SENATOR BEUTLER: ...like to speak one more time on this.

SENATOR CUDABACK: Time, Senator. Senator Chambers, on advancement of LB 975. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Senator Schrock, I'm going to ask you a couple of questions about some existing language which I don't understand. I'm going to start on page 7, in line 26, and we're talking about animal capacity in these feeding operations. So, in line 26, first of all, what is a liquid manure handling system?

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Senator Schrock.

SENATOR CHAMBERS: Is that a system that collects...well, I'll let you explain it, because I really don't know.

SENATOR SCHROCK: Senator Chambers, typically speaking, a livestock facility will dig a pit that is downstream from their facility, so when it rains everything runs in there, and it's a liquid waste, contains manure, and it's collected there so it doesn't get in our streams. And so that's what I would call a...let's see, what was the question? That's what I...

SENATOR CHAMBERS: That's what...that's what it seemed to me, but here's where I was thrown a curve. If there is a liquid manure handling system, 1,500 ducks is the limit. But without it, 10,000 ducks are allowed. So why can you have far more without the system than you can have with it?

SENATOR SCHROCK: Senator Chambers, on the surface, you would appear to be correct, but I think there's another...I think

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

there's the rest of the story. I don't have that yet. Okay, without a liquid system, then it's considered a dry facility and they're apparently not discharging. So that's the explanation I've gotten.

SENATOR CHAMBERS: Okay. Because the same thing was the case with chickens.

SENATOR SCHROCK: Yes. Yes, you're correct.

SENATOR CHAMBERS: Now here's where we both might be thrown a curve. In line 3 on page 8, 25,000 laying hens without liquid manure handling system. It doesn't say how many you can have with such a system. So is it a matter of there never being a liquid manure handling system where laying hens are involved?

SENATOR SCHROCK: Senator Chambers, the best response I would have now is that ducks are different than chickens, but we'll go over this with DEQ and if there's a problem...

SENATOR CHAMBERS: But here's why I'm saying it.

SENATOR SCHROCK: Yeah.

SENATOR CHAMBERS: In talking about chickens as chickens, in lines 1 and 2,...

SENATOR SCHROCK: Uh-huh.

SENATOR CHAMBERS: ...you can have 9,000 chickens with the liquid manure handling system, 37,500 chickens without it. Laying hens are chickens, I believe,...

SENATOR SCHROCK: Yes, but there's a...

SENATOR CHAMBERS: ...but they only mention how many...

SENATOR SCHROCK: There's a difference between...

SENATOR CHAMBERS: ...you can have without the liquid manure handling system, but not how many you can have if you have such

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

a system. So I'm wondering why, with chickens, they give the number based on with and without, but when it comes to hens, only without. But you...

SENATOR SCHROCK: Senator...

SENATOR CHAMBERS: Yes.

SENATOR SCHROCK: Senator Chambers, rather than me speculate on this, I will get those answers. I could do some speculating. Certainly there's a difference between ducks and chickens.

PRESIDENT SHEEHY: One minute.

SENATOR SCHROCK: But I better not speak with any certainty on that at this time.

SENATOR CHAMBERS: Okay. Because they do give with and without when it comes to chickens.

SENATOR SCHROCK: Yeah, uh-huh.

SENATOR CHAMBERS: They do that. But then, when we get to the category of chickens known as laying hens, they talk only about the number without. And another question that I have, and I may run out of time so I'll wait till I'm recognised, but it will be on page 23.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Beutler.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, let me just talk a little bit more about water conservation fee and the advantage of a fee. You can...you can create a fee in two ways, more than two ways probably, but you can create a fee that's across the state, all irrigators. That's what I was talking about before. The justification and the theory is they're paying for a part of the regulation and the whole state is regulated. Or, with respect to the Republican problem, you could create a fee that applied only to the NRDs in that basin. Whichever way you do it, think about

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

this, if you would. Doesn't it make some sense to create an incentive for everybody in the Republican Basin not to overuse the water? And there are several ways of doing this, but with respect to a conservation fee, for example, if you took that money and put it into a fund and said this money is going to be used to pay Kansas, if we have to pay Kansas, and the fee will increase or decrease based upon how much money we need to pay Kansas or how much money we need to pay the state of Nebraska to reimburse them for paying Kansas, that would create an incentive not to pay Kansas so that the conservation fee could be kept low or nonexistent. Creating the incentive not to pay Kansas creates the incentive to do those various things that are necessary to keep the required flow of water into Kansas adequate. I think we're missing the boat this session. If we don't work with conservation easements and if we don't work with a water fee, and if we don't work with something that does something about those 300 wells that were drilled after the year 2001, all of those things can be brought together as components where we could propose an overall...a good overall solution to this problem this session. And I hope you will think about it some more. I hope this example of the cattlemen participating in a fee, even though they don't control their own markets in the sense of immediately setting the price, they're doing just fine. What they need are opened up markets in Japan. The fee isn't a problem. So I just wanted to acquaint you, be sure everybody was acquainted with this fee, and ask you to think about the water conservation fee again as you go along. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Beutler. Senator Chambers, followed by Senator Schrock. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature. Senator Schrock, in looking at the last page of the bill, I see that certain sections, since this bill carries the emergency clause, take effect immediately upon final passage and the Governor signing, pursuant to the emergency clause; other specified sections will take effect on December 1, 2006. So I'm going to page 23 now and we're talking about a person who held an operating permit on December 31, 2005, which was last year, and whose permit expired pursuant to rules and

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

regulations. This person can file for reinstatement of that permit, provided the request must be filed on or before December 31, 2007. Now, Section 16 is one of those mentioned on page 24, in line 6, which will take effect immediately. So this that takes place immediately explains how to reinstate an expired permit. I was wondering why the filing, not the granting of the permit or the reinstatement, the filing can be delayed until December of 2007. I was wondering why not December of this year, because there would be a time lag which would allow the person to file for the reinstatement. However, when talking about an operating permit, the definition is found in Section 1, which will not take effect until December 1, 2006. So until December 1, 2006, there is, apparently, no provision for an operating permit. That language that the bill uses with reference to that permit will not take effect until December of this year. However, if that is the case, it would seem that the existing definition is the one that would be used, except that that may not be correct. So here's the question I will ask. Why is there going to be a period of time between December of 2006, when the new definition of "operating permit" comes into existence, and December of 2007, when an application for an expired permit must be filed? Let me ask the question a different way now. A one-year period during which the person has no permit, because it expired, that one-year period between December 2006 and 2007, the person can operate without a permit without penalty. Is that correct?

SENATOR SCHROCK: Senator Chambers, I think you are incorrect, because they already hold an old permit before LB 916 was passed.

PRESIDENT SHEEHY: One minute.

SENATOR SCHROCK: But they don't hold a new permit, as we passed LB 916 in the 2004 Session.

SENATOR CHAMBERS: But this says that permit expired.

SENATOR SCHROCK: Yes, and we're granting an extension because the bill we passed two years ago, LB 916, had some problems with federal regulations. So we're going to give them until December

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

of '07 on their old permit. And, by the way, I think those permits practice sound stewardship, so I don't think we have a problem here with a pollution issue. But we're giving them extra time, because it takes awhile to implement these. And certainly there's professionals out there that help them design these facilities.

SENATOR CHAMBERS: But here's what I'm getting to, before my time...is this my third time, Mr. President? Is this my third?

PRESIDENT SHEEHY: This is your second.

SENATOR CHAMBERS: Okay. Then I will put on my light and then I won't run out of time before I ask you the question coherently. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Schrock, followed by Senator Beutler and Senator Schimek. Senator Schrock.

SENATOR SCHROCK: Senator Chambers, I'll let...I'll give you my time.

SENATOR CHAMBERS: Here's what I'm looking at, Senator Schrock. The language on page 23 says that the permit expired. It doesn't talk about anything...it doesn't have any language which says that the validity of that permit will be extended until a certain date. It talks about a reinstatement request that will be filed. So if you have to file for reinstatement, it means you have no permit. It has not been extended. The law is granting this person the right to operate without a permit for at least a one-year period, and I'm wondering why they are going to allow that long a period of time operating without a permit before a person even has to request reinstatement. Let me read the language, starting in line 19, on page 23. "Any person who held an operating permit on December 31, 2005, and whose permit expired pursuant to rules and regulations may file a request for reinstatement of the operating permit subject to the following conditions: (a) The request must be filed on or before December 31, 2007." Why not December of 2006 instead of granting that one-year period when no license...no permit has to

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

be held? In other words, if you don't have to file the permit...the request for reinstatement until December 31 of 2007, subpart (b) says, "The person shall certify that the livestock operation is in compliance with the operating permit as it existed on the date the operating permit expired." Well, that occurs December...on or before December 31, 2007. Why are they pushing that application date for reinstatement to 2007 instead of making it December of 2006? You're filing for reinstatement, that's all.

SENATOR SCHROCK: Senator Chambers, the short answer is they wanted the extra time and it was agreed to by all parties.

SENATOR CHAMBERS: Who wanted the extra time, the department or the ones whose permit would expire?

SENATOR SCHROCK: Farmers Union, I guess, specifically asked for the extra time.

SENATOR CHAMBERS: They need...if they cannot certify that the livestock operation is in compliance with the operating permit that they had, if they can't certify that, why are they going to be allowed to operate without a permit for that period of time? And here's what I'm getting at. The permit expires. With the language here, the person could let the operation fall out of compliance until such date as the application for reinstatement is made, which is December 31 of 2007. Just prior to filing for that particular reinstatement, the person can come into compliance, and could have remained out of compliance prior to that. Senator Schrock, would you like to respond?

SENATOR SCHROCK: On page 10, line 21: Any animal feeding operation which was in existence on January 1, 2004, and does not have any permit on the operation date of this section shall be subject to additional...to addition to any...

PRESIDENT SHEEHY: One minute.

SENATOR SCHROCK: ...other requirements of the Environmental Protection Act, Livestock Waste Management Act, and rules and regulation adopted and promulgated pursuant to such act, to the

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

same or substantially similar operating requirements as the requirement that existed on January 1, 2004. So they have to maintain their operation in requirement to the existing permit that they've had. They cannot fall outside of compliance with the permit that they've had.

SENATOR CHAMBERS: Well, yes, they can. They can continue to operate. They don't even have to apply for a permit until 2007, and at that time they certify that the operation is in compliance, and they could have brought it into compliance just before they apply. But I won't...I won't belabor it. I will wait till another day. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Beutler, this is your third time on advance LB 975.

SENATOR BEUTLER: Mr. Lieutenant Governor, just a couple last comments on fees, on livestock fees and water fees. I thought it was interesting, and it should be that you might be interested in knowing how this fee with the cattlemen work, how the fee system works. It's an annual per-head fee and it's different based on different kinds of livestock. But here's the interesting part that I had not related to you. It says that starting a year from now the department will annually review and adjust the fee structure to ensure that fees are adequate to meet 20 percent of the program costs. So here's a fee program that makes a lot of sense. If, over the years, the cost of regulation goes up, then in that event the fees will go up so that it costs 20 percent of the program. If you did a similar kind of fee for irrigators, we could take care of our problem. We could take care of our problem. There wouldn't be any question about General Funds. There would be enough money from that kind of a fee, levied at a reasonable rate, that it would provide adequate funds to ensure that with regard to the Republican...and remember we have to think of the Platte as well as the Republican, because the Platte is coming along. That agreement will be in place before too long, and that agreement, just as in the Republican, will require us to abide by certain limitations. And just as in the Republican, we may be overusing the water right now. So we need to get in place a system that can apply to the Republican but also can apply to the Platte

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

system, which is a larger, much larger problem, so we have something in place when that comes along, and everybody knows what the expectations are. Finally, I just wanted to pass along to you the fact that with regard to those 2001 wells, it's clear now that legally the state, the NRDs, they can limit the amount of water that comes from those wells to an amount that's less than what is generally allocated to other users in the NRD. There's no question but that we can do that legally if we want to do that and, by all rights, part of the solution to the problem should be in that particular area. That's all I wanted to relate to you, and I thank you for the time.

PRESIDENT SHEEHY: Thank you, Senator Beutler. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I'm sorry I've been in and out of the Chamber this morning and haven't really zeroed in on this bill, but I understand, from talking with Senator Schrock, that he mentioned, I think he did anyway, that the bill that I had introduced and had gone through Natural Resources Committee was incorporated into this. I would like to thank him and the committee because I think it's a good amendment, a good provision in this new amendment, and all it does is requires that the Department of Environmental Quality provide a copy of the application that was submitted to the natural resources district or county board in which the livestock waste control facility is located or proposed to be located, and current law only says that the department has to notify those two entities that the application has been filed. It also goes on to increase to 30 days, from 20, the opportunity for review. And this was an issue that we had worked on in Government Committee, to some degree, and that I had requested of the Natural Resources Committee. They did advance it to the floor last year, but I wanted to thank Senator Schrock for including it in this particular bill. And, Senator Schrock, if you wanted any of my time, I'd be happy to give it to you. Don't need it? Thank you.

PRESIDENT SHEEHY: Thank you, Senator Schimek. Further discussion on advancement of LB 975 to E & R Initial? Seeing none, Senator Schrock, you're recognized to close.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 975

SENATOR SCHROCK: Mr. Lieutenant Governor, is it appropriate now to call for a call of the house, then I can proceed with closing remarks?

PRESIDENT SHEEHY: The question for the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 23 ayes, 0 nays, Mr. President, to place the house under call.

PRESIDENT SHEEHY: The house is under call. Would all unexcused senators please return to the Chambers. All unauthorized personnel please step from the floor. Senator Schrock, if you'd like to commence your closing.

SENATOR SCHROCK: Yeah, Mr. Lieutenant Governor, members of the Legislature, one of the reasons I had a call of the house, I didn't (sic) want to respond briefly to Senator Beutler's comments on irrigation fees. Senator Beutler, I annually introduce a bill that does away with personal property taxes. None of the states around here pay personal property taxes. The livestock people in this state do not pay personal taxes...personal property taxes on their livestock, and you were here, I was here when that took place. But farmers pay personal property tax on their irrigation machinery. It's a burdensome tax. It's a heavy tax. And we also have high property taxes. So I think, maybe not directly, but indirectly, irrigators pay a pretty hefty tax on their irrigation equipment facilities. And I would also like to say that people said a lot of nice things about me this morning and I'm kind of getting teary-eyed back here, but if you would like to join Senator Pederson, Senator Engel, and I, if this vote is positive, for a group hug back here after the vote, I would be very glad to accommodate you. (Laughter) Thank you.

PRESIDENT SHEEHY: You've heard the closing on advancement of LB 975 to E & R Initial, the question...is the question before the body. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk.

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

February 1, 2006 LB 14, 99, 99A, 789, 975, 1003, 1004, 1008
1222

CLERK: 42 ayes, 0 nays, Mr. President, on the advancement of LB 975.

PRESIDENT SHEEHY: LB 975 does advance. The call is raised. Items for the record, Mr. Clerk.

CLERK: Mr. President, amendments to be printed to LB 99 by Senator Synowiecki and Senator Brown. LB 1222 has been selected as a committee priority bill by Transportation. A series of appointments from the Governor to the Nebraska Arts Council. Transportation Committee reports LB 789 to General File; General Affairs reports LB 1004 to General File with amendments; Transportation, LB 1008 to General File with amendments, all signed by the respective Chairs. Enrollment and Review reports LB 14 and LB 1003 to Select File. New A bill. (Read LB 99A by title for the first time.) A series of hearing notices from the Government Committee. (Legislative Journal pages 520-526.)

And, Mr. President, a priority motion: Senator Howard would move to adjourn until Thursday morning, February 2, at 9:00 a.m.

PRESIDENT SHEEHY: Priority motion: The question before the body is, shall there be adjournment until Thursday, February 2, 2006, at 9:00 a.m.? All those in favor say aye. Opposed say nay. We are adjourned.

Proofed by: AEG